Scientia est Potentia

Knowledge is Power

The Brief brought to you by the Advanced Sales Team of Nationwide®
Spring 2010

Inside this issue:

Spring Blooms A New Look and A New Purpose

I am very proud to introduce our new look and purpose of the *The Brief brought to you by the Advanced Sales Team of Nationwide®*. I hope you will find our re-design more invigorating and colorful. Our intent is to maintain the heart and soul of our newsletter with advanced sales technical detail combined with practical information to help you provide an "on your side experience" to your clients and increase sales.

We know that you have busy schedules and to better serve you we:

- Have shortened the articles to provide for a quick read format
- Will keep a keen eye out for what's new
- Stay true to concepts that have made you successful.
- Added small nuggets of useful information throughout this publication,

Of course, if you would like more detail on any of the concepts presented, you can find us on the Nationwide Sales & Service Center webpage at ssc.nwservicecenter.com/iApp/ssc/login.do There you will find many thought provoking articles, whitepapers, presentations and many other resources to help you in your business.

Within each newsletter, you will find articles focused on life, annuity and retirement planning concepts. We have also added an investment section.

This reflects the team's multi-faceted commitment to each of the sales distributions within Nationwide Financial and a commitment to a broader consultative planning approach to help you address the diverse needs of your clients.

In a recent Fortune article, Stanley Bing compared business people to sharks, not in a negative way or because of their ferociousness, *"but because we must move forward or die"*. You will continually see our newsletter evolve, as our passion for promoting sales pushes us to continually strive to provide the knowledge, experience and practical applications to move us all forward.

So, sit back, take a deep breath and enjoy the read!

Gail

Creative Design Team:

Ken Boothe, JD, CLU, ChFC
Technical Editor

Erica England Herron
Creative Design

We always welcome your input and suggestions for this publication. Please direct comments to:

Gail Chrisley, JD, CPA, CLU
Associate Vice President
800-321-6064 x20296
Fax: 614.737-0669
E-mail: chrislg@nationwide.com

The 7 Deadly Annuity Sins

Thomas H. Duncan, JD, CLU, ChFC
Steve Hamilton, JD, CLU, ChFC

Nonqualified annuities can be a beneficial choice for clients. However, their contracts and the rules governing them can be complicated and a mistake can have grave consequences. Here are some common mistakes to avoid.

Not understanding the annuity contract

Don't assume that Annuity contracts are all the same. Some are owner driven, while others are annuitant driven. The same scenario with different annuity contracts can have dramatically different results.

The estate is the beneficiary

This may happen because the estate is named as the beneficiary or no beneficiary is named, leaving the estate as the default beneficiary. When this happens, the annuity is subject to the publicity, delays, estate creditors and costs of probate. These issues may be avoided by naming a specific beneficiary – spouse, children, trust, or a charity.

Not having contingent beneficiaries

What happens if the primary beneficiary predeceases the owner or annuitant? If no contingent beneficiary is named, the death proceeds will typically be paid to the estate.

Naming minors as beneficiaries

Minors do not have legal capacity to execute a contract. Thus, a court appointed guardian/conservator (terminology varies by state) is needed to exercise those rights for them. Furthermore, when that child reaches the age of majority the money is his or hers. Establishing a trust for minor children and naming it as a beneficiary or contingent beneficiary may be a better option.

Business Owned Annuities

Annuities owned by non-natural entities like corporations, limited liability companies (LLCs), partnerships and other forms of business organizations do not enjoy tax-deferred buildup. *IRC Sec 72(u)(1)(A)* This means that the growth in the annuity contract is taxable every year to the owner. *IRC Sec 72(u)(1)(B) and 72(u)(2)(A)(i)*

Changing Ownership

Changing the ownership to a non- spouse is an income taxable event with possible gift tax consequences.

Assigning an annuity

Any amount of an annuity that is assigned or pledged is treated like a taxable withdrawal to the extent of the gains in the contract. *IRC Sec 72(e)*

Properly structured and managed annuity contracts can avoid these "7 deadly sins".

"What happens if the primary beneficiary predeceases the owner or annuitant?"

"The more we care for the happiness of others, the greater our own sense of well-being becomes." *~the Dalai Lama*

True or False

It is a taxable event for a husband to transfer ownership of his non-qualified annuity to his wife.

See back page for answer

"Everybody wants to be somebody; nobody wants to grow." ~ Johann Wolfgang von Goethe

The Impact of Choices

Ken Boothe, JD CLU, ChFC

At its core, a mutual fund is simply a fund that is managed by an investment company and invests in publicly traded securities. The investor owns a share of the mutual fund, but does not have ownership rights in the underlying securities. The investment performance of the underlying securities drives the investment performance of the fund.

Timing of the purchase

Mutual funds are required to distribute nearly all their capital gains and dividends each year. These gains and dividends are passed through to investors proportionally, based on their percentage of ownership. Even though the investor has not sold the mutual fund shares, the managers of the funds have been buying and selling securities inside the fund itself. This activity results in the realization of capital gains or losses, which are passed on to the fund's investors. Whenever the investor receives a distribution, whether or not it is reinvested in the fund, the investor is responsible for the ensuing tax liability. It really makes no difference how long an investor has owned a fund, but it does matter how long the fund has owned the underlying stock that has been sold.

Many funds make distributions of gains in the latter part of the year. What happens when an investor makes a purchase right before a distribution?

Actually, the investor will be in exactly the same position as before with respect to the total value of the account. The Net Asset Value of each share will decrease, but the number of shares held will increase, assuming reinvestment. Consequently, there may be a tax liability the investor had not foreseen.

Fund Losses

It is possible for an investor to lose money in a fund, but still receive a taxable distribution. Normally, when the market experiences substantial drops, investors pull money out. When this happens, the fund managers are forced to sell stocks to meet redemptions. If most of the stocks they sell produce gains, these must be passed on to investors in the form of distributions. Therefore, it is possible to have a reduction in account value and have capital gains and/or dividends distributed to the investor, creating a taxable event.

Turnover Ratios

This is an indicator of both efficiency and style. An annual turnover of 100% means a fund replaces securities worth its total average asset base once per year. Generally, higher turnover means a higher tax bill, as gains must be passed to investors.

2010 Top Gift Tax Rate

35%

True or False

To qualify as a regulated investment company, a fund must distribute at least 75% of its gross income to its owners.

**See back page for answer*

DON'T WORRY, EAT HAPPY

30% The drop in your risk of depression if you eat a Mediterranean diet rich in produce, whole grains, healthy oils, and nuts. Researchers say essential nutrients in these foods help brain cells bind to serotonin, a mood-boosting neurotransmitter.

-Adapted from *"Prevention"* January 2010

"If you don't know where you are going, you'll end up someplace else."
~ Yogi Berra

Common Mistakes In Life Insurance Planning

Dave Smucker, CPA, CFP®, CLU, ChFC

It is easy to miss some details when writing a life insurance case. Unfortunately, if incorrect ownership and beneficiary elections are made, they can create unnecessary estate, income, or gift taxes. Here are some mistakes to avoid:

- **Create a Goodman triangle.** A Goodman triangle is a life insurance policy in which the owner, insured and beneficiary are three different people. The death of the insured triggers a taxable gift by the owner to the beneficiary. To avoid that problem the owner and beneficiary of the policy should be the party that will need the policy benefit in the event of the insured's death.
- **Make a minor the beneficiary.** In the event of the insured's death the Probate Court would require a formal guardianship for the minor with periodic reports to the Court. The simpler solution would be to create a revocable trust for the benefit of the minor, appointing a parent or guardian as the trustee, avoiding the potentially cumbersome and expensive Court procedures.
- **Put a large sum of money into inexperienced hands.** Following on the previous mistake, if there is Probate Court oversight, the minor will typically receive the money upon reaching majority – age 18 or 21, depending on the state. The temptations of receiving a large sum of money may be too much for the recipient to resist. The above-suggested trust could have provisions delaying distributions until the recipient achieves greater maturity.
- **Ignore IRC Sec 101(j).** 101(j) governs employer-owned life insurance. Failure to comply with it will result in much of a death benefit being included in taxable income. Compliance with 101(j) is the employer's responsibility, but we sell life insurance to employers, so we need to be aware of its provisions and to mention it to employer's when we're providing life insurance on their employees.
- **Pledge a Modified Endowment Contract as collateral for a loan.** Pledging a Modified Endowment Contract as collateral for a loan is considered to be a distribution, which can generate income tax and the 10% penalty tax. The better approach is to find something else to use as collateral.

It is important for any financial professional to avoid these mistakes. Doing so will enhance the planner's life insurance planning skills, make him or her more competitive, and help clients avoid unnecessary income, estate and gift taxes.

A business may deduct life insurance premiums if it makes an election to treat the death benefit as taxable income, when received.

**See back page for answer*

True or False

0%

2010 Estate Tax Rate

True or False

Regulations are the IRS's precedent setting interpretations of the provisions of the Internal Revenue Code as they apply to factual situations facing clients.

**See back page for answer*

55%

2011 Estate Tax Rate

ERISA – Fiduciary Matters

Rich Landsberg, JD, LLM, CLU, ChFC

Congress enacted the Employee Retirement Income Security Act of 1974 (“ERISA”) to regulate qualified retirement plans and to protect the funds invested in those plans for the benefit of plan participants and their beneficiaries. From a retirement plan perspective, the statute protects Defined Benefit Pension Plans, Money Purchase Pension Plans, Profit Sharing Plans, 401(k) Plans and Employee Stock Ownership Plans. ERISA’s fiduciary protections are primarily found in Title 1 of ERISA. Those fiduciary protections include standards of conduct for fiduciaries, reporting and disclosure requirements and prohibitions against certain transactions. The relevant authority in interpreting and applying the fiduciary provisions in ERISA Title 1 comes from:

- Decisions of federal courts
- Regulations issued by the Department of Labor
- The Internal Revenue Code of 2001, as amended
- Treasury Regulations issued by the Internal Revenue Service

ERISA’s fiduciary duties are based upon the common-law duties of care and loyalty owed by a trustee to a beneficiary. Even before ERISA’s enactment, the Internal Revenue Code required qualified retirement plans be managed by the employer for “the exclusive benefit of his employees or their beneficiaries.” However, because Congress found that adequate safeguards did not exist pertaining to the operation of qualified retirement plans, ERISA created a federal common law of fiduciary duty that expressly preempts the state common law of trusts.

The fiduciary provisions apply to all plans covered by ERISA except for:

- Nonqualified Deferred Compensation Plans for a select group of management or highly compensated employees
- Payments to a retired partner or a deceased partner’s successor to the Partnership

The fiduciary standards contained in ERISA apply only to fiduciaries of employee benefit plans. Fiduciary status under ERISA derives from the functions a person performs with regard to a plan. A person is a fiduciary with respect to a plan if she or he:

- Exercises any discretionary authority or discretionary control with regard to the management of the plan or with regard to management or disposition of the plan’s assets
- Renders investment advice for compensation (direct or indirect) to the plan
- Has discretionary authority or responsibility in the administration of the plan

While ERISA assigns fiduciary duties based on a functional rather than a formal test, the statute does require that each plan provide for a “named fiduciary.” A named fiduciary may manage plan investments independently. A named fiduciary may also appoint an investment manager but still be required to monitor the investment manager with a standard of care requisite that of a prudent person.

> *“The fiduciary standards contained in ERISA apply only to fiduciaries of employee benefit plans.”*

APRIL 1, 2010

LTC/Combo Products - New Tax Laws, New 1035 Rules, and Defining Sales Opportunities

Presented by - Shawn Britt, CLU

This presentation will address the new tax law changes affecting long-term care riders on life insurance and annuity contracts as well as the new rules allowing for 1035 exchanges into stand alone long-term care contracts. In addition, we will discuss defining the proper fit between the life/LTC vs. annuity/LTC prospect.

APRIL 22, 2010

Put Your Clients in Control: Life Insurance Beneficiary Designation and Settlement Options

Presented by– Derek Welch, JD

Clients want to know their money is being put to good use. Please join us for a discussion on using Nationwide's owner-directed settlement options in order to control how and when their beneficiaries access their death benefit proceeds -- with or without the use of a trust.

MAY 13, 2010

Estate Tax **State of Estate Tax! "Where we are, Where are the Opportunities**

Presented by Don Schreiber, J.D., CLU, ChFC & Rich Landsberg, JD, LLM, CLU, ChFC, APM, AIF®

Federal estate taxation is GONE! On January 1, 2011 it comes back worse than when it left. Opportunity exists for financial advisors in the estate planning area! This session tells us where we are, where we are scheduled to go, what to do, and the opportunities created by this situation.

JUNE 3, 2010

Beyond Roth Conversions– Recharacterizations

Presented by Steve Hamilton, JD, CLU, ChFC

When is a Roth conversion not final? When it is recharacterized. This presentation will discuss when it is advantageous to recharacterize back to an IRA and the necessary steps to complete the process.

JUNE 17, 2010

Understanding Fee Transparency

Presented by Andrew Shapiro, CLU, ChFC

What the upcoming disclosure rules mean for product design, how you interact with your client, and the ultimate effects on your client's account. Changes mean opportunities if you the have the right information.

Teleconference number: (877) 733-4792

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800-321-6064 x20296
FAX: 614-737-0669

For more in depth coverage of the ideas and articles you found inside please visit us at the **Nationwide Sales & Service Center:**
ssc.nwservicecenter.com/iApp/ssc/login.do

Contributing Writers:

Ken Boothe boothek@nationwide.com
Tom Duncan: duncant2@nationwide.com
Steve Hamilton: hamils25@nationwide.com
Rich Landsberg: landsbr@nationwide.com
Dave Smucker: dsmucker@nationwide.com

Nationwide Advanced Sales:

solutions for you and your clients

The advanced financial and tax-planning strategies we help provide come to life using innovative life insurance policies and annuities.

We specialize in:

- Retirement distribution plans
- Nonqualified executive benefit plans
- Estate planning techniques
- Business succession strategies
- Charitable giving strategies
- Advanced annuity strategies

Your more discerning clients may have a need for estate, retirement and business strategies all at once. That's why we're here — through consultation, case design and research, we synthesize all the information to help determine the best approach for your client.

True or False Answers

ANNUITY:
Answer-False
Transfers between non-spouses are taxable, however.

LIFE:
Answer-False
Life insurance premium payments are not tax deductible.

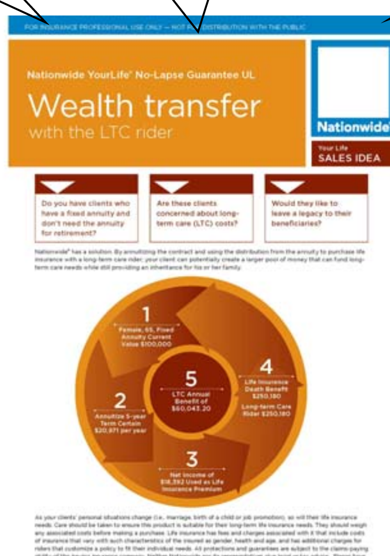
PENSION:
Answer-False
This describes a revenue ruling.

MUTUAL FUNDS:
Answer-False
It must distribute 90%.

Do you have clients who have a fixed annuity and don't need the annuity for retirement?

Are these clients concerned about long-term care (LTC) costs?

Would they like to leave a legacy to their beneficiaries?



If you answered 'yes' to any of these questions this Sales Idea could be for you.

You can order from Merrill by using form number NFM-6763AO.1
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In a few states, there may be an insurable interest concern, but most states have passed legislation that addresses this issue. Nationwide Life Insurance Company, as part of its underwriting process, will consider the insured's health and insurable interest along with financial underwriting.

This article is not intended by the author to be used, and cannot be used, by anybody for the purpose of avoiding any penalties that may be imposed on you pursuant to the Internal Revenue Code. The information contained herein was prepared to support the promotion, marketing and/or sale of life insurance contracts, annuity contracts and/or other products and services provided by Nationwide Life Insurance Company.

This article is not designed or intended to provide financial, tax, legal, accounting, or other professional advice because such advice always requires consideration of individual circumstances. If professional advice is needed, the services of a professional should be sought since neither the company nor its representatives give legal or tax advice. Federal tax laws are complex and subject to change.

As your clients' personal situations change (i.e., marriage, birth of a child or job promotion), so will their life insurance needs. Care should be taken to ensure these strategies and products are suitable for long-term life insurance needs. You should weigh your clients' objectives, time horizon and risk tolerance as well as any associated costs before investing. Also, be aware that market volatility can lead to the possibility of the need for additional premium in the policy. Variable life insurance has fees and charges associated with it that include costs of insurance that vary with such characteristics of the insured as gender, health and age, underlying fund charges and expenses, and additional charges for riders that customize a policy to fit your clients' individual needs.

Before investing, understand that annuities and/or life insurance products are not insured by the FDIC, NCUSIF or any other federal government agency and are not deposits or obligations of, guaranteed by or insured by the depository institution where offered or any of its affiliates. Annuities and/or life insurance products that involve investment risk may lose value.

All guarantees and protections are subject to the claims-paying ability of Nationwide Life Insurance Company, and do not apply to variable underlying investment options.

Investing involves market risk, including risk of loss of principal. Before selecting any product, please consider your clients' objectives and needs, including cash flow and liquidity needs, and overall risk tolerance and time horizon as well as any associated costs.

The cost of an optional rider may exceed the actual benefit paid under the optional rider. Riders are offered at an additional cost and may not be available in all states. A life insurance or annuity purchase should be based on the life insurance or annuity contract, and not optional riders or features. Optional riders and features are offered at an additional cost and may not be available on all Nationwide variable annuities or in all states. An annuity purchase should be based on the annuity contract, and not optional riders or features.

Please note, lifetime income can be achieved at no additional charge through annuitization.

When evaluating the purchase of a variable annuity, your clients should be aware that variable annuities are long-term investment vehicles designed for retirement purposes and will fluctuate in value; annuities have limitations; and investing involves market risk, including possible loss of principal.

This information assumes that the life insurance is not a modified endowment contract, or MEC. As long as the contract meets the non-MEC definitions of IRC Section 7702A, most distributions are taxed on a first-in/first-out basis. Surrender charges may apply to partial surrenders. Loans and partial surrenders from a MEC will generally be taxable, and if taken prior to age 59½, may be subject to a 10% tax penalty. Loans and partial surrenders will reduce the cash value and the death benefits payable to the named beneficiary (ies), and withdrawals above the available free amount will incur surrender charges. If your contract were to lapse with a loan outstanding, the loan amount in excess of basis will be treated as a distribution and all or a portion will be subject to income tax.

None of the hypothetical examples included in this newsletter are intended to represent any specific client or client situation. The assumptions used are for illustrative purposes; actual results will vary.

Variable products are sold by prospectus. Both the product prospectus and underlying fund prospectuses can be obtained from your investment professional or by writing to Nationwide Life Insurance Company, P.O. Box 182150, Columbus, OH 43218. Before investing, carefully consider the fund's investment objectives, risks, charges and expenses. The product prospectus and underlying fund prospectus contain this and other important information. Read the prospectuses carefully before investing.

Annuities and life insurance products are underwritten by Nationwide Life Insurance Company and Nationwide Life and Annuity Insurance Company, Columbus, Ohio. The general distributor for variable annuity contracts and variable life insurance policies is Nationwide Investment Services Corporation, member FINRA. In MI Only: Nationwide Investment Svcs. Corporation.